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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/674,483	09/30/2003	Andrew P. Muser	P-4961/2	4681
26253	7590	06/16/2005	EXAMINER	
DAVID W. HIGHET, VP AND CHIEF IP COUNSEL BECTON, DICKINSON AND COMPANY 1 BECTON DRIVE, MC 110 FRANKLIN LAKES, NJ 07417-1880			LEVKOVICH, NATALIA A	
			ART UNIT	PAPER NUMBER
			1743	

DATE MAILED: 06/16/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

VB

<b>Office Action Summary</b>	Application No.	Applicant(s)
	10/674,483	MUSER, ANDREW P.
	Examiner Natalia Levkovich	Art Unit 1743

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 30 September 2003.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-9 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 30 September 2003 is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
    - a) All    b) Some \* c) None of:
      1. Certified copies of the priority documents have been received.
      2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
      3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____.   |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____. | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|  | 6) <input type="checkbox"/> Other: _____.                                   |

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

3. Claims 1-4 and 8-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over any of Szlosek (USP 5,759,494) or Pham et al. (USP 6,063,338).

Micro-well plates having wells of various shapes( including rectangular shape with rounded corners) are widely known and routinely used in the art.

Szlosek discloses a microplate having a plurality of wells "provided in a number of alternate configurations having different cross-sectional shapes,e.g., rectangles, squares and triangles(Col.4, line 10).

Pham teaches a plate comprising wells which "can be made in any cross sectional shape

(in plan view) including, square, round, and hexagonal and combinations thereof. Wells can be made in any cross sectional shape (in vertical view) including, shear vertical walls with flat or round bottoms, conical walls with flat or round bottoms and curved vertical walls with flat or round bottoms and combinations thereof" (Col.7, lines 20-40).

Szlosek and Pham do not specifically teach that the corners of the wells should be rounded. However, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have employed wells having rounded corners in the apparatus of Szlosek or Pham, in order to facilitate cleaning of the wells.

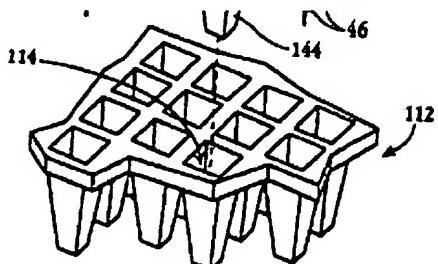
3. Claim 6-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Szlosek (USP 5,759,494).

Szlosek refers to a micro-plate which includes an upper plate that forms sidewalls for each well, and a transparent lower plate. "The upper and lower plates have relatively complex designs so that they may be mated together and sonically bonded to form the microplate"(Col.2, lines 10-25).

4. Claims 1-5 and 8-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kowallis et al. (USP 6,878,341).

Kowallis discloses a microwell plate comprising wells of rectangular shape. The side walls and the corners of the wells are tapered towards closed ends. The plate is unitarily formed (See Figure 12).

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**Fig. 12**

Kowallis does not specifically teach that the corners of the wells should be rounded. However, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have employed wells having rounded corners in the apparatus of Kowallis, in order to facilitate cleaning of the wells.

### ***Conclusion***

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Natalia Levkovich whose telephone number is 571-272-2462. The examiner can normally be reached on Mon-Fri, 8 a.m.-4p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jill Warden can be reached on 571-272-1267. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Jill Warden  
Supervisory Patent Examiner  
Technology Center 1700